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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/003,208 01/12/93 KOHN

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EXAMINER
CRIARES, T

12M2

SCULLY, SCOTT, MURPHY & PRESSER
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GARDEN CITY, NY 11530

ART UNIT	PAPER NUMBER
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1205

DATE MAILED: 04/27/93

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

- ☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire _____ month(s), 30 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-848. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-36 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

2. ☐ Claims _____ have been cancelled.

3. ☐ Claims _____ are allowed.

4. ☐ Claims _____ are rejected.

5. ☐ Claims _____ are objected to.

6. ☒ Claims 1-36 are subject to restriction or election requirement.

7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-848).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed on _____, has been ☐ approved. ☐ disapproved (see explanation).

12. ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received
☐ been filed in parent application, serial no. _____; filed on _____

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

PTOL-329

Claims 1-36 are presented for examination.

Pursuant to 35 U.S.C. 121 restriction is required .

This application contains claims directed to the following patentably distinct species of the claimed invention:

GROUP I - Compounds which are within Claim 1 directed to phosphorus compounds in class 252 subclass 174.16;

GROUP II - Compounds which are within Claim 1 directed to phosphorous to compounds in class 558 subclass 89+;

Group III - Mercapto compounds in claim 1;

The several inventions above are independent and distinct, each from the other as they have acquired a separate status in the art and are classified separately and require independent searches. Moreover, a reference to one improved combination of drugs under 35 U.S.C. 103 would not necessarily be a reference to another improved combination of drugs. Further, the claims reading on a multitude of drugs which would require many fields of search that would be an undue burden to the Examiner.

Therefore, Restriction for examination purposes is proper.

Applicant is required to make a provisional election even though this requirement is traversed.

Claims 36 and 36 directed to a method of use will be examined with the elected group.

A telephone call was made to Mark Cohen, Esq, on April 26, 1993 to request an oral election to the above restriction requirement, but did not result in an election being made.

Serial No. 08/003208
Art Unit 1205

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Criares whose telephone number is (703) 308-4607.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1235.



T.J. Criares
Examiner
Art Unit 1205
April 26, 1993